

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

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Implementation of the

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Pay Telephone Reclassification

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and Compensation Provisions of the

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Telecommunications Act of 1996

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CC Docket No. 96-128

COMMENTS

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July 1, 1996

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## SUMMARY

In its Comments, NECA states that the public interest would be best served under the following arrangements: 1) rates for dialtone services, including lines and related central office coin transmission services, should be filed in intrastate tariffs; and 2) the Commission should continue to permit local exchange carriers (LECs) to recover interstate payphone subscriber line costs that exceed the current subscriber line charge (SLC) amount via carrier common line (CCL) charges, pending resolution of access charge reform and the universal service proceedings. This would be in lieu of imposing a new monthly charge to recover the difference between the SLC and the full interstate cost of the subscriber lines, as proposed by the Commission. In addition, NECA offers its services and expertise to administer the funding mechanism for public interest payphones, in the event that the Commission establishes such a mechanism.

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**COMMENTS**

The National Exchange Carrier Association, Inc. (NECA)<sup>1</sup> submits its comments in response to the Commission's Notice of Proposed Rulemaking (*NPRM*) in the above-captioned proceeding.<sup>2</sup>

The Commission issued the *NPRM* to implement the requirements of section 276 of the Telecommunications Act of 1996.<sup>3</sup> Section 276 of the *1996 Act* directs the Commission to ensure

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<sup>1</sup> NECA is a not-for-profit, membership association, serving over 1400 local exchange carrier (LEC) study areas. NECA members include all local exchange carriers in the United States, Puerto Rico, the U.S. Virgin Islands and Micronesia. NECA is responsible, under Subpart G of Part 69 of the Commission's rules, for activities including the preparation of access charge tariffs on behalf of all telephone companies that do not file separate tariffs, collection and distribution of access charge revenues, the administration of the Universal Service and Lifeline Assistance programs, and the administration of the interstate Telecommunications Relay Service fund. See 47 C.F.R. § 69.603 and § 64.604.

<sup>2</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Notice of Proposed Rulemaking*, CC Docket No. 96-128, FCC 96-254 (rel. June 6, 1996) (*NPRM*). In the *NPRM*, the Commission seeks comments on proposals that would: provide a per-call compensation plan for every completed intrastate and interstate call using a payphone; end current cost recovery for LEC payphones; require incumbent LECs to offer individual central office coin transmission services to all payphone service providers (Commission refers to these as "PSPs") under a nondiscriminatory tariffed offering; and determine if "public interest payphones" should be maintained and if so how these payphones should be funded.

<sup>3</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at (continued...))

that all payphone owners are fairly compensated for calls originated on their payphones.<sup>4</sup> This section of the *1996 Act* also mandates that the Commission discontinue intrastate and interstate cost recovery of payphone services from access charge payments and from basic exchange and exchange access revenues, and establish a per-call compensation plan.<sup>5</sup>

NECA believes that the public interest would be best served under the following arrangements: 1) dialtone line rates for central office coin services should be filed in intrastate tariffs;<sup>6</sup> and 2) the Commission should continue to permit LECs to recover interstate payphone subscriber line costs that exceed the current subscriber line charge (SLC) cap via carrier common line (CCL) charges, pending resolution of access charge reform and the universal service proceedings. This would be in lieu of imposing a new monthly charge to recover the difference between the SLC and the full interstate cost of the subscriber lines, as proposed by the Commission.<sup>7</sup> In addition, NECA offers its services and expertise to administer the funding mechanism for public interest payphones, in the event that the Commission establishes such a mechanism.<sup>8</sup>

In an effort to promote regulatory parity for all payphone service providers,<sup>9</sup> the Commission

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<sup>3</sup> (...continued)  
47 U.S.C. § 276 (*1996 Act*).

<sup>4</sup> 47 U.S.C. § 276 (b)(1)(A).

<sup>5</sup> 47 U.S.C. § 276 (b)(1) (A) and (B).

<sup>6</sup> See Section III.B.2.a. (¶ 46) of the *NPRM*.

<sup>7</sup> See Section III.B.2.c. (¶ 54) of the *NPRM*.

<sup>8</sup> See Section III.F.2 (¶ 82) of the *NPRM*.

<sup>9</sup> The Commission has adopted the term “payphone service provider” which is used  
(continued...)

states in the *NPRM* that customer-premises equipment (CPE) associated with payphone service must be unbundled from their underlying transmission facilities, which is the loop and certain central office functions.<sup>10</sup> To unbundle payphone CPE from underlying transmission facilities, the Commission concludes that incumbent LECs (whether or not they themselves provide payphone services) must offer central office coin transmission services<sup>11</sup> to all private payphone providers under a nondiscriminatory, public, tariffed offering.<sup>12</sup> The Commission seeks comment on the requirement that incumbent LECs not currently subject to price cap regulation be required to submit cost support for central office coin services pursuant to sections 61.38, 61.39 and 61.50 (i) of the Commission rules, 47 C.F.R. §§ 61.38, 61.39 and 61.50 (i).<sup>13</sup>

The intent of the legislation is to level the playing field, *i.e.*, to treat telephone company-

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<sup>9</sup> (...continued)

throughout 47 U.S.C. § 276 to refer to all payphone providers, whether they are private payphone owners (currently referred to as “PPOs”) or LECs. *NPRM* at n. 46. The term “PPOs” contained in this filing refers to private payphone owners and not LECs which provide payphone service.

<sup>10</sup> The Commission tentatively concludes that incumbent LEC payphones should be treated as unregulated, detariffed CPE. *See NPRM* at ¶¶ 42, 44 and 49.

<sup>11</sup> The Commission defines these as services such as coin recognition, answer detection, and other related services. *NPRM* at ¶ 43. These features can only be provided to customers in conjunction with local dialtone service. It is NECA’s position that these features should not be separated from local dialtone service and should be filed in intrastate tariffs. *See infra* p. 4.

<sup>12</sup> *NPRM* at ¶ 45. Incumbent LECs are able to offer payphone services using either instrument-implemented “smart” payphones or “dumb” payphones that utilize central office coin services, or a combination of the two. Currently, private payphone owners use the instrument-implemented “smart” payphones only. The Commission states that the option of using central office coin services gives incumbent LECs a cost advantage over competitors. The Commission tentatively concludes that requiring that central office coin services be made available to private payphone owners will increase competition in the payphone industry. *Id.* at ¶ 43.

<sup>13</sup> *Id.* at ¶ 46.

provided payphone service in a manner equivalent to the way PPOs are treated. Currently, PPOs purchase local dialtone service from incumbent LECs to provide customer-owned, coin-operated telephone (COCOT) service. The rates for this service are currently filed in intrastate tariffs as a local exchange service. As outlined in the *NPRM*, the LECs' independent, reclassified payphone operations will similarly be required to obtain local dialtone service from the regulated LEC. This service is the same type of local dialtone exchange service already purchased by PPOs. Therefore, rates for this dialtone service, including lines and related coin transmission services, should also be filed in intrastate local exchange tariffs, rather than in two separate jurisdictional tariffs. In fact, some of the Bell Operating Companies (BOCs) have begun providing central office coin services as intrastate tariffed services to PPOs in several states.<sup>14</sup> Under this approach, tariffs for these services would not be subject to sections 61.38, 61.39 and 61.50 (i) of the Commission's rules (which set forth requirements for filing interstate tariffs with the Commission).<sup>15</sup>

Costs of the subscriber line portion of local dialtone exchange service that are allocated to the interstate jurisdiction are currently recovered through two separate interstate charges. One charge is a flat-rate SLC which is assessed upon end user customers who subscribe to local dialtone exchange service. The other is a per-minute CCL charge, assessed upon interexchange carriers, that recovers the balance of interstate subscriber line costs. PPOs are required to pay a SLC for subscriber lines used by each of their payphones.<sup>16</sup> However, LECs have not been required to pay

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<sup>14</sup> See *id.* at ¶ 43 and n. 126.

<sup>15</sup> See *id.* at ¶ 46.

<sup>16</sup> The Commission has determined that PPOs are classified as end users under its rules. See (continued...)

the SLC on lines used to provision LEC payphone service because, under the Commission's access charge rules, the costs of these payphone lines have been entirely recovered through CCL charges.<sup>17</sup> In order to promote payphone competition and to avoid discrimination, the Commission has concluded that the SLC should apply to subscriber lines that terminate both at payphones operated by LECs and by PPOs.<sup>18</sup>

The Commission also seeks comment on whether LECs should charge PPOs and charge or impute to themselves a monthly charge representing the difference between the SLC charge and the full interstate cost of the subscriber lines. NECA believes that LECs should be permitted to continue billing CCL charges to interexchange carriers, and should not be required to impose a new charge to recover additional interstate costs associated with interstate payphone subscriber lines. Continuation of the CCL charge pending completion of access reform and universal service reform by the Commission would preclude unnecessary piece-meal regulatory restructuring and would be less burdensome and disruptive than developing an additional interstate rate element.<sup>19</sup>

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<sup>16</sup> (...continued)

C.F. Communications Corp. v. Century Telephone of Wisconsin, Inc., *Memorandum Opinion and Order*, 10 FCC Rcd 9775 (1995), *petition for review filed*, C.F. Communications Corp. v. FCC and United States, No. 95-1563 (D.C. Cir. filed Nov. 6, 1995). The Commission states that PPOs are required to pay a SLC for their use of common lines connected to the payphones they serve, but are not assessed a per-minute CCL charge. *NPRM* at n 151

<sup>17</sup> *NPRM* at ¶ 53

<sup>18</sup> *Id.*

<sup>19</sup> As long as the LEC bills CCL charges for all interstate calls, whether they originate from a LEC payphone or a PPO payphone, and the SLC to all payphone lines including its own, no discrimination among payphone providers will exist. Any changes in this methodology could be implemented by the Commission after it addresses SLC/CCL issues in the context of its universal (continued...)

Section 276 of the *1996 Act* also requires the Commission to determine whether public interest payphones (provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone) should be maintained, and if so, how to ensure that public interest payphones are supported fairly and equitably.<sup>20</sup> The Commission seeks comments on the need for a Commission-mandated funding mechanism to support such public interest payphones fairly and equitably.<sup>21</sup> The Commission specifically asks for comments on the details of how the mechanism should function, who would be eligible to receive funding, who would be responsible for paying into the fund, and who would administer the funding mechanism.<sup>22</sup>

NECA believes that the need to maintain public interest payphones is worthy of serious consideration as it relates to the principles of universal service set forth in the *1996 Act*. If the Commission determines, upon completion of the rulemaking process, that a funding mechanism to recover the costs of installing and maintaining public interest payphones should be established, NECA is confident that a workable program could be developed and administered by NECA in accordance with Commission rules. Those rules would have to provide specific criteria for determining eligibility for entities to receive funding for the installation and maintenance of public interest payphones. One approach may be to limit payments to carriers designated as “eligible” under section 214 (e) of the

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<sup>19</sup> (...continued)  
service and access charge reform proceedings

<sup>20</sup> 47 U.S.C. § 276 (b)(2).

<sup>21</sup> *NPRM* at ¶ 82

<sup>22</sup> *Id.*



*1996 Act*.<sup>23</sup> Commission rules would also have to specify who would contribute and the payment requirements needed to ensure that public interest payphones are supported fairly and equitably.<sup>24</sup> NECA believes that contributions to a public interest payphone fund should be collected in the same equitable manner as required for other universal service programs to be implemented under the *1996 Act* -- all providers of interstate telecommunications services must contribute. NECA suggests that an interstate revenue-based contribution methodology could be utilized to allocate funding responsibility among interstate carriers.<sup>25</sup> Support funds for the various programs should be kept separate and distinct.<sup>26</sup>

NECA is capable of administering a public interest payphone funding mechanism if so directed by the Commission. NECA is currently responsible for administering the federal Universal Service Fund, the interstate Telecommunications Relay Services (TRS) fund, and the Commission's Lifeline Assistance programs, in addition to exchange carrier access charge pools.<sup>27</sup> NECA has the expertise

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<sup>23</sup> 47 U.S.C. § 214 (e).

<sup>24</sup> See 47 U.S.C. § 276 (b)(2).

<sup>25</sup> This methodology is currently utilized with the interstate TRS fund. Many commenters in the recent universal service proceeding, including NECA, had suggested that a revenue-based collection methodology be used with the new universal service funding mechanism to be established under the *1996 Act*. NECA also proposed use of a revenue-based collection system to fund programs for discounted services to rural health care providers, educational institutions and libraries, as well as any additional programs authorized for low-income customers. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Notice of Proposed Rulemaking and Order Establishing a Joint Board*, 61 Fed. Reg. 10499 (March 14, 1996), FCC 96-93 (rel. March 8, 1996) (*1996 NPRM*), NECA *1996 NPRM* Comments at 17-18, NECA *1996 NPRM* Reply at 14-16.

<sup>26</sup> See NECA *1996 NPRM* Reply at 17.

<sup>27</sup> See 47 C.F.R. §§ 69.603 and 64.604. NECA was reappointed to serve as administrator of the TRS fund for a term ending July 25, 1999. Appointment of the Telecommunications Relay  
(continued...)

and resources to collect, verify and process large amounts of data efficiently and in compliance with Commission rules.<sup>28</sup> NECA, with this proven track record, would be a logical choice to administer any funding program that is developed in connection with public interest payphones.

In conclusion, NECA recommends that until the Commission addresses universal service and access charge reform, the Commission should permit LECs to recover interstate subscriber line costs associated with payphone lines through the existing SLC/CCL rates. NECA also asserts that the

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<sup>27</sup> (...continued)

Services (TRS) Fund Administrator and Composition of the TRS Advisory Committee, *Memorandum Opinion and Order*, 10 FCC Rcd 7223, 7224 (1995). NECA is also authorized to administer state programs, and currently does so on behalf of the State of Vermont.

<sup>28</sup> NECA, in both its comments and reply filed in the universal service proceeding, has demonstrated its expertise in fund administration. *See NECA 1996 NPRM Comments* at 19-23, *NECA 1996 NPRM Reply* at 17-23. For example, NECA, as TRS administrator, currently processes contributions from nearly 3,000 interstate telecommunications providers that support the interstate TRS fund, and collects and analyzes cost data from a variety of entities including exchange carriers, interexchange carriers, state agencies and other providers.

dialtone line required to provide coin services is a local exchange service and should be filed in intrastate local exchange tariffs. Finally, NECA offers its expertise in fund administration to manage any funding mechanism that the Commission establishes to support public interest payphones.

Respectfully submitted,

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July 1, 1996

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 1st day of July 1996, by hand delivery or first class mail, to the persons listed below

By   
Donna A. DiMartino

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